

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Alexander Post Office
Alexander, Kansas

Docket No. A2012-90

ORDER AFFIRMING DETERMINATION

(Issued March 20, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly, the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On November 30, 2011, the City of Alexander (Petitioners) filed a petition with the Commission seeking review of the Postal Service's Final Determination to close the Alexander, Kansas post office (Alexander post office).² The Final Determination to close the Alexander post office is affirmed.³

II. PROCEDURAL HISTORY

On December 21, 2011, the Commission established Docket No. A2012-90 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁴

On December 15, 2011, the Postal Service filed the Administrative Record with the Commission.⁵ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁶

² Petition for Review received from the City of Alexander regarding the Alexander, Kansas post office 67513, November 30, 2011 (Petition).

³ The Commission is divided equally, 2-2, on the outcome of this appeal. In the absence of a majority, the Final Determination stands.

⁴ Order No. 1063, Notice and Order Accepting Appeal and Establishing Procedural Schedule, December 21, 2011.

⁵ The Administrative Record is attached to the United States Postal Service Notice of Filing, December 15, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Alexander, KS Post Office and Establish Service by Rural Route Service (Final Determination).

⁶ United States Postal Service Comments Regarding Appeal, January 23, 2012 (Postal Service Comments).

Petitioners filed a participant statement supporting their Petition.⁷ On February 9, 2012, the Public Representative filed a reply brief.⁸

III. BACKGROUND

The Alexander post office provides retail postal services and service to 43 post office box or general delivery customers. Final Determination at 2. Twenty-three (23) delivery customers are served through this post office. The Alexander post office, an EAS-55 level facility, provides retail service from 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 3:00 p.m., Monday through Friday, and 8:00 a.m. to 9:30 a.m. on Saturday. Lobby access hours are 24 hours, Monday through Saturday. *Id.*

The postmaster position became vacant on November 30, 2009 when the Alexander postmaster retired. A non-career officer-in-charge (OIC) was installed to operate the post office. Retail transactions average 18 transactions daily (20 minutes of retail workload). Post office receipts for the last 3 years were \$30,399 in FY 2008; \$23,494 in FY 2009; and \$24,176 in FY 2010. There are no permit or postage meter customers. *Id.* By closing this post office, the Postal Service anticipates savings of \$28,104 annually. *Id.* at 7.

After the closure, retail services will be provided by the Bazine post office located approximately 9 miles away.⁹ *Id.* at 2. Delivery service will be provided by rural carrier service through the Bazine post office. The Bazine post office is an EAS-11 level post office, with retail hours of 8:00 a.m. to 4:15 p.m., Monday through Friday, and 9:30 a.m. to 10:00 a.m. on Saturday. *Id.* Lobby access hours are 24 hours, Monday through Saturday. Administrative Record, Item No. 18. Two-hundred-two (202) post office

⁷ Participant Statement received from the City of Alexander, January 5, 2012 (Participant Statement).

⁸ Reply Brief of the Public Representative, February 9, 2012 (PR Reply Brief). Accompanying the Public Representative Reply Brief was a Motion of Public Representative for Late Acceptance of Comments, February 9, 2012. The motion is granted.

⁹ MapQuest estimates the driving distance between the Alexander and Bazine post offices to be approximately 8.2 miles (11 minutes driving time).

boxes are available. Administrative Record, Item No. 18; Final Determination at 2. The Postal Service will continue to use the Alexander name and ZIP Code. *Id.* at 5, Concern No. 20.

IV. PARTICIPANT PLEADINGS

Petitioners. Petitioners oppose the closure of the Alexander post office. Petitioners argue that rural carrier service will not meet the postal service needs of the Alexander community and that discontinuing the post office would be a hardship for elderly and a “devastating blow” to the community. Petition at 2; Participant Statement at 6. After the church closes, the Midstate Coop will be the only business left in Alexander. *Id.* Finally, Petitioners expressed the belief that there must be more cost effective ways to reduce expenses than to cut a Postal Service income source. Petitioners effectively question the Postal Service’s calculation of economic savings. Petition at 2.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Alexander post office. Postal Service Comments at 2. The Postal Service believes the appeal raises three main issues: (1) the effect on postal services; (2) the impact on the Alexander community; and (3) the economic savings expected to result from discontinuing the Alexander post office. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Alexander post office should be affirmed. *Id.* at 10-11.

The Postal Service explains that its decision to close the Alexander post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and declining office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery;

- an expected decline in growth in the area;
- minimal impact on the community; and
- expected financial savings.

Id. at 4. The Postal Service contends that it will continue to provide regular and effective postal services to the Alexander community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioners regarding the effect on postal services, the effect on the Alexander community, economic savings, and the effect on postal employees. *Id.* at 10-11.

Public Representative. The Public Representative finds that the Postal Service has followed applicable procedures. PR Reply Brief at 5. The Public Representative adds, however, that the decision to close the Alexander post office is unsupported by substantial evidence. *Id.* The Public Representative recommends the Commission remand the Final Determination to close the Alexander post office. *Id.* at 7.

Specifically, the Public Representative finds fault with the Postal Service's analysis of economic savings, noting that a postmaster salary and benefits, rather than the OIC salary, is used in the calculation. *Id.* at 6. The Public Representative also disagrees with the Postal Service's assertions of declining office receipts and workload. The Public Representative notes that post office receipts actually increased in 2010. *Id.* Finally, the Public Representative argues that the Postal Service's two-week survey of window transactions and assessment of postmaster workload are insufficient information on which to base the conclusion that workload at the Alexander post office has declined over the past 3 years. *Id.* at 7.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal

Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

The Administrative Record indicates the Postal Service took the following steps in providing notice of its intent to close. On April 5, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Alexander post office. Final Determination at 2. A total of 84 questionnaires were distributed to delivery customers. Other questionnaires were made available at the retail counter. A total of 25 questionnaires were returned. On April 14, 2011, the Postal Service held a community meeting at the Alexander Fire Hall to address customer concerns. Twenty-seven (27) customers attended. *Id.*

The Postal Service posted the proposal to close the Alexander post office with an invitation for comments at the Alexander and Bazine post offices from July 20, 2011 through September 20, 2011. Administrative Record, Item Nos. 36, 36a. The Final Determination was posted at the same two post offices from October 28, 2011 through November 29, 2011. *Id.*, Item No. 49 at 1, 9.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. Alexander is an incorporated community located in Rush County, Kansas. Final Determination at 6. The community is administered politically by the Alexander Mayor and Village Board. Police protection is provided by the Rush County Sheriff. Fire protection is provided by the Alexander Volunteer Fire Department. The community is comprised of farm related persons and those who commute to work at nearby communities or who may work in local businesses. *Id.* Residents may travel to nearby communities for other supplies and services. See *generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Alexander community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Alexander post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 6-7.

Petitioners argue that closing the Alexander post office would essentially destroy the community, because the post office is the only business in the town besides the Midstate Coop. Petition at 2. Petitioners state that the post office provides news to members of the community, because all notices are posted there. Petition at 3; Participant Statement at 5. The Postal Service responds that if the Final Determination is implemented, then the Midstate Coop will remain as an Alexander business where community notices could be posted. Postal Service Comments at 8.

Petitioners are also concerned that the closure of the post office may deter new people from moving to Alexander, and may even cause some residents to move away. Participant Statement at 6. The Postal Service responds that Petitioner's concerns are understandable. The town has experienced a steady decline in businesses and residents, and this trend is expected to continue. Postal Service Comments at 8. The Postal Service adds, however, that like all the other businesses and the school in Alexander, it has had to consider whether by consolidating its resources, it can continue to provide services while reducing duplicative costs. *Id.* at 9.

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the Alexander postmaster retired on November 30, 2009 and that an OIC has operated the Alexander post office since then. Final Determination at 7. It asserts that after the Final Determination is implemented, the temporary OIC may be separated from the Postal Service and that no other Postal Service employee will be adversely affected. *Id.*

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Alexander post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Alexander customers. Postal Service Comments at 5. It asserts that customers of the closed Alexander post office may obtain retail services at the Bazine post office located 9 miles away. Final

Determination at 2. Delivery service will be provided by rural carrier service through the Bazine post office. The Alexander post office box customers may obtain Post Office Box service at the Bazine post office, which has 202 boxes available. *Id.*

For customers choosing not to travel to the Alexander post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 5. Petitioners argue that it is impractical for many customers, especially farmers, to wait by the mailbox to transact business with the rural carrier. Petition at 2; Participant Statement at 6. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. Postal Service Comments at 5. Furthermore, customers are not restricted to obtaining services from the carrier; they may utilize any post office or alternate access location. *Id.* at 5-6.

Petitioners read the city's water well meters and are concerned whether rural carrier service will allow for timely mailing of water samples to Topeka. Petition at 2. The Postal Service responds that it has considered this concern, noting that the water samples need to be mailed within 24 hours, which would be possible with rural carrier service. Postal Service Comments at 6.

Petitioners worry that closing the Alexander post office will result in hardship for senior citizens. Specifically, they state that the town population includes mostly elderly and retired residents, some of whom do not drive. Petition at 2-3; Participant Statement at 6. The Postal Service points to the Administrative Record, explaining that carrier service is beneficial to many senior citizens and those who face special challenges, because they do not have to travel to the post office for service. Postal Service Comments at 6-7. The Postal service adds that in hardship cases, customers can apply to the Postmaster for delivery to be made to the customer's home. *Id.*

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$28,104. Final Determination at 7. It derives this figure by summing the following costs:

postmaster salary and benefits (\$30,738) and annual lease costs (\$4,020), minus the cost of replacement service (\$6,654). *Id.*

Petitioners argue that closing the Alexander post office would not save enough money for the Postal Service to make a difference in its financial position. Petition at 2. The Postal Service responds that while the savings may seem small to Petitioner, it is significant to the overall cost reduction focus of the Postal Service. The Postal Service notes that it explores all opportunities to increase efficiency, while maintaining regular and effective service. Postal Service Comments at 9-10. The Postal Service observes that, “when allowed to accumulate, drops in the bucket do eventually fill the bucket.” *Id.* at 10.

The Public Representative argues that the Postal Service should not calculate economic savings using a postmaster salary and benefits when an OIC has been operating the post office for past couple of years. PR Reply Brief at 6.

The post office postmaster retired on November 30, 2009. Final Determination at 2. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office may be separated from the Postal Service. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Alexander post office has been staffed by an OIC for approximately 2 years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Public Representative also argues that the Postal Service's post office receipts, information about window transactions, and assessment of postmaster workload are insufficient evidence to conclude that workload has actually declined over the last three years. PR Reply Brief at 6-7. The Commission notes that office receipts at the Alexander post office declined \$6,905 from FY 2008 to FY 2009. The slight increase of \$682 in office receipts from FY 2009 to FY 2010 is not indicative of a

significant upward trend. Similarly, although the two-week survey of window transactions, incoming mail, and dispatched mail is a snapshot, there is no indication that the data in the Administrative Record are inaccurate, or that the Postal Service is unjustified in the conclusions it has drawn from that data.

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Alexander post office is affirmed.¹⁰

It is ordered:

The Postal Service's determination to close the Alexander, Kansas post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

¹⁰ See footnote 3, *supra*.

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Alexander post office has been operated by a non-career officer-in-charge (OIC) since the former postmaster retired on November 30, 2009. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only an OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation have already been included in those billions. There are inherent and blatant contradictions in the Administrative Record that must be corrected on remand.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data were in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the Administrative Record and present a more considered evaluation of potential savings.

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12,

2011, have the respite of a 5-month moratorium and the opportunity to have further consideration of alternatives by the Postal Service.

The citizens of Alexander, Kansas and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility for over two years, since November 2009, not an EAS-55 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

I find that the Administrative Record evidence does not support the Postal Service's decision to discontinue operations at the Alexander post office and should be remanded.

Nanci E. Langley